

REMARKS

The present application relates to new antibiotics designated AW998A, AW998B, AW998C and AW998D, to their production by fermentation and to methods for the recovery and concentration from crude solutions and purification.

Applicants request reconsideration and allowance of the application in light of the foregoing amendments and the following remarks. Entry of the amendment is requested.

Claims 1-9 are pending in the application. New claim 9 has been added. The Examiner has rejected claim 7 under 35 U.S.C. 112 first paragraph, because the specification fails to comply with the written description requirement and fails to comply with the enablement requirement. Applicants have amended claim 7 to remove the phrase "or mutants thereof" to overcome the Examiner's rejection that there is lack of description in the specification as to how the mutants will be made. Support for amended claim 7 may be found throughout the specification and in particular on page 12 lines 18-28 where the cultivation of LL-AW998 is described.

The Examiner has further rejected claim 7 under 35 U.S.C. 112 first paragraph that the specification lacks description as to range of variation to the fermentation process and a lack of enablement. For reasons set forth below, this rejection of claim 7 is respectfully traversed. It is the applicants position that the lack of description and enablement requirement is satisfied if the specification describes any method of making and using the claimed invention that bears a reasonable correlation to the scope of the claims. Applicants have described throughout the specification and specifically in the working examples on pages 12-16 of the specification sufficient description and working examples to enable one skilled in the art to make and/or use the invention.

Applicants believe they have complied with 35 USC 112, first paragraph and Applicants respectfully ask the Examiner to reconsider and withdraw the rejection of claim 7.

Applicants have added new claim 9 which provides specific percentages of assimilable sources of carbon, nitrogen and inorganic anion and cation salts in the fermentation and which further finds support in the specification on page 14, Example 2.

In the office communication of December 8, 2004 the Examiner has rejected claims 1-8 under 35 USC 102(f) as being anticipated by Kong et al, J. Antibiotics v. 56(6) 557-564 (2003). Applicant Scott William Luckman has provided a declaration as to his coinventorship to overcome the 35 USC 102(f) rejection. With reference to the J. Antibiotics v. 56(6) 557-564 (2003) art cited by the Examiner, applicants emphasize that the reference is primarily a description of the chemical structure determination of Glycinocins A to D using sophisticated spectroscopy techniques. The fermentation described in the reference cited by the Examiner, J. Antibiotics v. 56(6) 557-564 (2003) was presented in the reference to show the source of the Glycinocins A to D. Applicants direct the Examiner to page 563 of the reference cited, J. Antibiotics v. 56(6) 557-564 (2003) right column under Acknowledgments where S. Luckman is thanked for providing said fermentations. In the specification of the instant application, pages 12-16 are provided the General Fermentation Conditions, isolation of antibiotics AW998A, AW998B, AW998C and AW998D and purification of said antibiotics. Amended claim 7 provides a process for the cultivation of LL-AW998, recovery and isolation of said antibiotics.

Applicants believe that the declaration of Scott William Luckman answers the rejection under 35 U.S.C. 102(f) and urge withdrawal of this rejection.

Applicants respectfully request that the Examiner enter the amendment, reconsider the rejections in light of the remarks herein and amendments to the claims, and allow the application. Favorable treatment is earnestly solicited.

Respectfully submitted,



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